JPA File No.: 05-114

AG Contract No.: KR06-0320TRN Project No. S-095-MO-200 Project: SR 95 Realignment Study

Section: I-40 to SR 68 TRACS No.: H6801 01L

Budget Source Item No.: 28005

INTERGOVERNMENTAL AGREEMENT

AMONG
THE STATE OF ARIZONA
AND
CITY OF BULLHEAD CITY
AND
MOHAVE COUNTY

I. RECITALS

- 1. The State is empowered by Arizona Revised Statues § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
- 2. The City is empowered by Arizona Revised Statues §§ 9-240, 9-276, 11-952 and 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.
- 3. The County is empowered by Arizona Revised Statues §§ 11-251 & 11-952 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.
- 4. The State, City and County desire to participate in the State Route (SR) 95 Realignment Study, hereinafter referred to as the "Study". The Study includes preparation of a Federal Environmental Impact Statement (EIS) and State Design Concept Report (DCR) The study will evaluate potential alignments and select a preferred new highway location. The purpose of the realignment is to relocate SR 95 as an access controlled highway between I-40 and SR 68 to better connect the Mohave County communities of Bullhead City and Lake Havasu City thereby improving regional traffic flow and enhancing safe travel. The State will perform the Study and the City and County will each contribute an amount not to exceed \$250,000.00 for the Study.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 2508
Filed with the Secretary of State
Date Filed: 7 Secretary of State
Secretary of State
By: 7

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II. SCOPE OF WORK

1. The State shall:

- a. Upon execution of this Agreement, retain and contract with a professional Engineering and Environmental Consultant (the "Consultant"), to perform design concept and environmental studies including the preparation of the EIS, DCR, all requisite technical studies and a Change of Access Report (COAR) to be approved by the Federal Highway Administration (FHWA).
- b. Upon execution of this Agreement, invoice the City an amount estimated at \$250,000.00 as contributing funds to accomplish the Study. The State will administer the Consultants and make payments to the Consultants. Be responsible for any Consultant claims for extra compensation attributable to the State
- c. Upon execution of this Agreement, invoice the County an amount estimated at \$250,000.00 as contributing funds to accomplish the Study. The State will administer the Consultants and make payments to the Consultants. Be responsible for any Pre-Design and Environmental Consultant(s) claims for extra compensation attributable to the State.
- d. Coordinate the Study with the City and County and provide the City and the County the initial study documents for review and comment. Incorporate the City and County's comments in preparation of the final Study documents. Provide to the City and County the Final study documents.
- e. Be responsible for the preparation of the Environmental Impact Statement for the FHWA and shall provide all required coordination with FHWA including required approvals, as appropriate to this effort. The FHWA will be the Lead Federal Agency responsible for the EIS.
- f. Be responsible for the cost of the Study excluding the \$250,000.00 contribution of the City and the \$250,000.00 contribution of the County.

2. The City shall:

- a. Upon execution of this Agreement, does hereby designate the State as the authorized agent for and on behalf of the City, to retain and contract the Consultant to prepare environmental and design concept studies including the EIS, DCR, all requisite technical studies and a Change of Access Report (COAR) to be approved by the Federal Highway Administration (FHWA).
- b. Upon execution of this Agreement, and receipt of an invoice from the State (attached), remit to the State an estimated amount of \$250,000.00 as contributing funds to accomplish the Study.

3. The County shall:

- a. Upon execution of this Agreement, does hereby designate the State as the authorized agent to retain and contract the Consultant to prepare design concept studies, and plans required for a Design Concept Report (DCR), to prepare environmental and design concept studies including the EIS, DCR, all requisite technical studies and a Change of Access Report (COAR) to be approved by the Federal Highway Administration (FHWA).
- b. Upon execution of this Agreement, and receipt of an invoice from the State (attached), remit to the State an estimated amount of \$250,000.00 as contributing funds to accomplish the Study.

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III. MISCELLANEOUS PROVISIONS

- 1. The terms, conditions and provision of this Agreement shall remain in full force and effect until completion and reimbursements; provided herein. This Agreement may be cancelled at any time prior to the commencement of performance of this agreement, upon thirty-days (30) written notice to either party.
- 2. Each party (as "Indemnitor") agrees to indemnify, defend, save and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses including reasonable attorneys' fees, hereinafter collectively referred to as ("claims"), arising out of bodily injury of any person, including death or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees or volunteers.
 - 3. This Agreement shall become effective upon filing with the Secretary of State.
 - 4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.
 - 5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.
- 6. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.
- 7. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation Joint Project Administration 205 S. 17th Avenue, Mail Drop 616E Phoenix, Arizona 85007 (602) 712-7525 (602) 712-7424 Fax City of Bullhead City Attn: Diane Heilmann 1255 Marina Blvd Bullhead City, Arizona 86442-5733 (928) 763-9400 (928) 763-2340 Fax

Mohave County Attn: Clerk of the Board 809 East Beale Street Kingman, Arizona 86402 (928) 753-0731 (928) 753-0732 Fax

- 8. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".
- 9. Non-Availability of Funds: Every payment obligation of the State, City and County under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State, City and County at the end of the period for which the funds are available. No liability shall accrue to the State, City or the County in the event this provision is exercised as a result of termination under this paragraph.

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10. In accordance with Arizona Revised Statues § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITHNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF BULLHEAD CITY

STATE OF ARIZONA

Department of Transportation

DIANE VICK

Mayor

DOUGI

JGLA\$). FORSTIE, P.E

Deputy State Engineer, Operations

ATTEST:

DIANE HEILMANN

City C!erk

MQHAVE COUNTY

∪Clerk of the Boa

TPM SOCKWELL PETE BYERS
Chairperson - Board of Supervisors

ARIZONA MINIMININ

ATTEST:

G:05-114-Bullhead City-Mohave Cty-I40-SR68-Study-slc.doc

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ATTORNEY APPROVAL FORM FOR THE CITY OF BULLHEAD CITY

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona.

No opinion is expressed as	to the authority of the State to enter	into this Agreement.
DATED this	day of	, 2006
City Attorney		

RESOLUTION NO. 2006R-024

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF BULLHEAD CITY, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN ARIZONA DEPARTMENT OF TRANSPORTATION, MOHAVE COUNTY AND THE CITY OF BULLHEAD CITY AND AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE THE AGREEMENT TO ALLOW BULLHEAD CITY TO PARTICIPATE IN THE STATE ROUTE 95 REALIGNMENT STUDY

WHEREAS, the Arizona Department of Transportation, Mohave County and the City of Bullhead City desire to better connect the communities of Bullhead City and Lake Havasu City, improve regional traffic flow, and enhance safe travel in these Mohave County communities; and

WHEREAS, the Bullhead City Council approved an Intergovernmental Agreement with the Arizona Department of Transportation and Mohave County to participate in the State Route (SR) 95 Realignment Study for the purpose of relocating SR 95 as an access controlled highway between I-40 and SR 68; and

WHEREAS, it is in the direct and best overall interests of the residents of the City to enter into an intergovernmental agreement with Arizona Department of Transportation and Mohave County, Arizona for the purposes set forth hereinabove; and

WHEREAS, the State of Arizona is empowered to enter into this agreement by virtue of the provisions of A.R.S. §28-401, the City of Bullhead City is empowered to enter into this agreement by virtue of the provisions of A.R.S. §§ 9-240, 9-276, 11-952 and 48-572, and Bullhead City Code §2.04.080 and Chapter 2.72, and Mohave County is empowered to enter into this agreement by virtue of the provisions of A.R.S. §§11-251 and 11-952;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Bullhead City hereby approves the Intergovernmental Agreement between the Arizona Department of Transportation, the City of Bullhead City and Mohave County, Arizona, and hereby authorizes the Mayor to enter into and execute said agreement on behalf of the city.

PASSED AND ADOPTED by the Mayor and City Council of the City of Bullhead City, Arizona, this 2nd ___ day of May, 2006.

CERTIFICATION

THE FOREGOING INSTRUMENT IS A FULL, TRUE AND CORRECT COP

OF THE RECORD ON FILE IN THIS OFFICE.

DATED: 11/06/11 20/06 ATTEST: Diane Heilmann City Clerk

OF THE CITY OF BULLHEAD CITY, AZ

Diane Heilmann, City Clerk

Diane Vick, Mayor

APPROVED AS TO FORM:

W. Kent Foree, City Attorney

Members of the public are invited to speak on public hearing action items. To give everyone an opportunity to speak, please observe the following etiquette: (1) State your name clearly and spell your last name for the record (2) You may address the Council one time on each public hearing action item for a maximum of five (5) minutes (3) Groups must designate one spokesperson to speak on behalf of the group.

PUBLIC HEARING ON ITEM MOVED IN AGENDA MODIFICATION

28. <u>PUBLIC HEARING:</u> Discussion and possible action to approve Resolution 2005R-043 SUPPORTING THE REALIGNMENT OF HIGHWAY 95, AND AUTHORIZING UP TO A \$250,000 CONTRIBUTION TO THE PROJECT (Mayor Diane Vick).

Mayor Vick opened the public hearing.

Patricia Coburn said that she had concerns about the resolution. She did not feel that all of the residents of Bullhead City would benefit from the Highway 95 realignment. She said that she felt businesses would be affected negatively by this project.

Mike Conner, President and CEO of the Chamber of Commerce, said that the Arizona Department of Transportation (ADOT) included this project in its 20-year plan; however, the count down for the 20 years did not begin until the project was started.

He explained that a few weeks prior there was a meeting involving the Chamber of Commerce, government officials (including ADOT, City, and County), and other entities with a stake in the project. The opportunity to share in a match with ADOT for beginning the project was discussed. ADOT had \$1 million dollars left in the current year's budget that could be applied to the environmental impact study and the design concept phase. The environmental study and design concept would cost approximately \$5 million and take three years to complete. If the stakeholders matched the \$1 million, then the project would move forward. ADOT required a commitment for the \$1 million match by June 30.

Mr. Conner said he understood that the project might not be completed during his lifetime, but if it wasn't started it couldn't be completed. He pointed out that Mohave County had committed \$250,000 to the project, contingent upon the City matching them with \$250,000.

Marty Coburn said that it would be a mistake to support the funding unless the City could get assurances from the developers that would benefit the most from the project. Jean Mace said that she was against the City contributing \$250,000. There needed to be a lot of provisions to the City contributing the money, including contributions by the people who owned property along the proposed realignment. She suggested upgrading Bullhead Parkway. Alberta Ecklund said that she did not see how the realignment would benefit the City, even in the far future. She did not feel there would be less traffic in Bullhead City if this project moved forward. The \$250,000 could be used for many other projects within the City. This project would benefit Mohave County much more than it would the City.

Orchid Comitz said that no one had ever bought insurance with a guarantee that they were going to break a leg or wreck a car; nobody had ever built a road that nobody used. She said that business owners did not feel Highway 95 was the driving force for their business. In fact, the traffic on Highway 95 was a hindrance. She said this project would increase opportunities for

economic development in the area. It would create a retail hub in Bullhead City. Ms. Comitz said that she was strongly in favor of the project.

Sam Elters, ADOT District Engineer for Kingman, said that the feasibility study for this project had been completed with the intention of moving on to the next phase, which was the environmental study and design concept. Highway 95 was currently operating beyond its capacity, and it was imperative that the opportunity presented be taken advantage of. He said that he could not guarantee construction funds, but the ADOT Board, especially the representative for Mohave County region, supported this project completely.

Mr. Elters said that there was \$1 million set aside to begin this project, and ADOT was asking for a \$1 million match from stakeholders. ADOT would budget the remaining \$3 million required for the project in its future budgets. Council Member Hakim asked if the project would move forward if the whole match were not met. Mr. Elters replied that he would do everything in his power to see that the project went forward without the full match; however, there was the possibility that the money would be allocated elsewhere.

Council Member Anderson asked Mr. Elters if ADOT would require the \$250,000 immediately, or if they would draw on those funds from the City over the period of the study and design concept phase. Mr. Elters replied that an intergovernmental agreement (IGA) would be entered into between ADOT, the City, and the County and the funding would be required once the IGA was approved. Mr. Elters assured Council that the Transportation Board fully understood and supported programming the necessary funds for the project once the initial \$1 million match was made. He added that the Bureau of Land Management was also supportive of the project.

There was some discussion regarding what the project would have cost if started five years prior. Mr. Elters pointed out that the realignment would be 40 miles long and cost approximately \$250 million dollars.

No one else wished to speak, and the Mayor closed the public hearing.

MOTION:

Council Member made a motion to approve Resolution 2005R-043 supporting the Highway 95 realignment and authorizing up to a \$250,000 contribution. Vice Mayor Sullivan seconded the motion.

Council Member Bruck read the following statement:

"In the first place state highways, and State Route 95 is a state highway, state highways are the responsibility of the state, and by statute are funded by the Highway User Revenue Funds, i.e., the state gas tax. The realignment that is being proposed is approximately east of the current Bullhead City limits, and even if we eventually annex the portion of Laughlin Ranch currently outside of the city limits, the realignment will still be two to three miles east of the City. Another words, the benefit to City residents is all but nonexistent. This new road will not, I repeat, will not improve our current traffic problems. Our traffic problems can only be alleviated by an additional bridge on the south end of the City, and eventually the improvement of Needles Highway, so that the visitors from California can reach Laughlin over that road."

"I'll tell you, in my opinion, who benefits the most from this realignment. The public entity Mohave County benefits a great deal because eventually developers who own up to 40% of the land adjacent to the proposed realignment will see their land values increase 10 to 20-fold. There will be development along that road, but it will be outside of the City limits."

"As far as economic development, I am not too interested in economic development outside the city limits because I am a City of Bullhead City Council Member. I care about economic development within city limits so that the City can derive some income from it."

"Every year our state legislature takes great pains to try to reduce the contribution that they make to cities. Every year the League of Cities and Towns has to lobby, with our support, to avoid the state taking away funds from us. But here we are, little ol' Bullhead City willing to contribute \$250,000 to a project that rightfully is strictly the responsibility of the great State of Arizona."

"Why should we fund this? Why? Why shouldn't we spend the \$250,000 to improve our own streets, to improve our own roads, rather than do what the state is supposed to do? Madam Mayor, I will vote against this for the reasons that I just stated. Thank you very much."

Council Member Medrano said that it was difficult to quantify traffic. Also, there was no way to tell what traffic would be like in the future, except that it would be worse.

He said that when he moved to Bullhead City the Bullhead Parkway was being considered. At the time there was a lot of concern that the Parkway would affect businesses on Highway 95 negatively. Now, Council was discussing putting traffic signals on the Parkway because of traffic issues and congestion. All this was due to growth.

Council Member Medrano continued by saying that there was no way to know that the realignment would be outside the City limits. A developer might decide to build there and request that the property be annexed into the City. He also felt that Bullhead City residents who needed to travel to California would go a few miles out of their way in order to avoid heavy traffic.

He continued by saying that that Council could pontificate about who was responsible for paying for the highway, but the bottom line was that there was too much competition. Phoenix, Yuma, Tucson, Payson, and all the other cities in Arizona were competing for new roads because of the growth in their cities. Council Member Medrano said it was time for Council to step up to the plate and do what was right for the citizens by planning for growth.

Council Member Anderson said that he agreed with Council Member Bruck that the realignment was not viable for Bullhead City. People from California were not going to use the proposed realignment. They would use the new Needles Highway, which would be completed in 2007. Also, when the new bridge over Hoover Dam was completed

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ATTORNEY APPROVAL FORM FOR MOHAVE COUNTY

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the COUNTY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the COUNTY under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.			
DATED this	day of	, 2006	
Od - Mohave County Attorney			

EXHIBIT A

MOHAVE COUNTY RESOLUTION NO. 2006-407

A RESOLUTION OF THE BOARD OF SUPERVISORS OF MOHAVE COUNTY ARIZONA; AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT AMONG THE STATE OF ARIZONA, CITY OF BULLHEAD CITY AND MOHAVE COUNTY TO PARTICIPATE IN THE STATE ROUTE (SR) 95 REALLIGNMENT STUDY.

WHEREAS, the Board of Supervisors of Mohave County met in Regular Session on this 5th day of June, 2006.

WHEREAS, Mohave County desires to enter into an Intergovernmental Agreement with the City of Bullhead City and the State of Arizona to participate in the SR 95 Reallignment Study, to include a Federal Environmental Impact Statement and State Design Concept Report for that portion of SR 95 between I-40 and SR 68, to better connect the Mohave County Communities of Bullhead City and Lake Havasu City thereby improving regional traffic flow and enhanced travel for the mutual benefit of the Cities, County and State, and

WHEREAS, Mohave County is empowered to enter into this agreement by virtue of provisions of A.R.S. § 11-951 & 952, the City of Bullhead City is empowered to enter into this agreement by virtue of provisions of A.R.S. § 9-240 and 9-276, 11-952 and 48-572, and the State is empowered to enter into this agreement by virtue of provisions of A.R.S. § 28-401.

WHEREAS, this agreement will further the best interest of the residents of Mohave County.

NOW THEREFORE, BE IT RESOLVED by the board of Supervisors of Mohave County that the attached Intergovernmental Agreement with the City of Bullhead City and the State of Arizona is hereby approved and the Chairman is hereby authorized to execute the same on behalf of Mohave County.

PASSED, APPROVED AND ADOPTED, on June 5, 2006.

MANUE COUTY BOARD OF SUPERVISORS

PETE BYERS, CHAIRMAN

ATTEST:

MOHAVEACOUNTY REQUEST FOR	BOARD ACTION FORM			
From: Michael Pilèndrix, P.E., Public Works Director	FORMAL ACTION			
	CONSENT PEGGLITION D			
Date: May 18, 2006	RESOLUTION □ OTHER □			
BOS Meeting Date: June 5, 2006	INFORMATION ONLY D			
SUMMARIZE THE ISSUE & DESIRED ACTION CLEA				
On June 6, 2006, the Board of Supervisors moved to en	ter into an Intergovernmental Agreement			
with Arizona Department of Transportation and the City	of Bullhead City to participate in the			
State Route (SR) 95 Realignment Study for the purpose of relocating SR 95 as an access controlled highway between I-40 and SR 68 to better connect the Mohave County communities				
of Bullhead City and Lake Havasu City. The State will	perform the study, and the City and			
County will each contribute an amount not to exceed \$2	50,000.00. The County's portion of the			
cost will be paid out of HURF funding.				
Recommended Motion: Move to approve the Intergov	ernmental Agreement between ADOT,			
the City of Bullhead City and Mohave County to partici	pate in the State Route (SR) 95			
Realignment Study for the purpose of relocating SR 95	as an access controlled highway between			
I-40 and SR 68. The State will perform the study, and to an amount not to exceed \$250,000.00, payable upon exceed \$250,000.00.	ecution of this Agreement. The County's			
portion of the cost will be paid out of HURF funds.	Action of this regionism.			
portion of the cost will be part and all all all all all all all all all al	/			
Reviewed and Appro	ved By:			
County Attorney 7 Personnel	Finance County Manager			
Board Action Tal	cen:			
Approved as Requested 🗷 No Action Taker. Continued to	Disapproved Approved with the following changes:			
Acknowledged receipt and referred to				
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Filing Information and	Retrieval			
Filed Bid	ed Agreement 2686			
BOS Resolution 2001, 2107 File	ed Yearly Correspondence			
I flod I ottifori	ed Dedicationed Land Acquired			
	Resolution			
	ed Other			
Date Routed: 6 12-06	dditional Information: Capy of NOO			
Date Routed: 6-12-06 XC: Systemal	Studiod . BECEIVED			
You are reminded that items for the agenda, along with comp	plete backup, must be in the County UN 1 3 2005			
Manager's Office 10 days prior to Board Meeting.	M. C. Pilo.			
Item No.	M. C. PUBLIC WORKS			
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Degred by ale	Badier			



TERRY GODDARD Attorney General

OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA

CIVIL DIVISION
TRANSPORTATION SECTION
Writer's Direct Line:
602.542.8855
Facsimile: 602.542.3646
E-mail: Susan Davis@azag.gov

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR06-0320TRN (**JPA 05-114**), an Agreement among public agencies, i.e., The State of Arizona, City of Bullhead City and Mohave County, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: June 26, 2006

TERRY GODDARD Attorney General

SUSAN E. DAVIS

Assistant Attorney General Transportation Section

SED:mjf:967003 Attachment